IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 161 of 1986

with

FIRST APPEAL No 162 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MERAM NAGJIBHAI BORICHA

Versus

K B MAKWANA

Appearance:

MR RAJNI H MEHTA for Appellants No. 1-3

NOTICE SERVED for Respondents No. 1-7

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 10/02/2003

COMMON ORAL JUDGEMENT

1. These two appeals filed by the owner and driver of the vehicle and the insurance company under Section

110-D of the Motor Vehicles Act, 1939 are directed against the judgment and awards dated 23rd September, 1985 passed by the Motor Accident Claims Tribunal (Main), Rajkot in M.A.C. Cases No.7 and 8 of 1984.

2. The said M.A.C. Cases arose out of a road traffic accident in which two minor children had lost their lives. Since the applications for compensation arose out of the same accident, they were consolidated and disposed of by a common judgment by the Tribunal. The Tribunal awarded Rs.50,250/- with interest at the rate of 6% per annum from the date of the application till realisation, in each of the two cases.

3. The learned counsel for the appellants took me through the judgment. In one case, the deceased boy was a student of 7th standard and in the other case, the deceased boy was a student of 8th standard. The Tribunal, after arriving at the finding that the accident was a result of rash and negligent driving on the part of the opponent no.1 - driver and that the deceased boys were not guilty of negligence, either sole or contributory, proceeded to discuss the evidence on the question of compensation in paras 28 to 35 and held that the applicants in each case would be entitled to the compensation of Rs.50,250/-. The conclusion of the Tribunal on the question of negligence is unassailable. The amount of compensation awarded in each case was just and proper in the facts and circumstances of the case, and cannot be said to be outside the brackets. There is no reason to interfere with the awards passed by the Tribunal. The appeals are, therefore, dismissed. No order as to costs.

(M.C. Patel, J.)
hki